

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.6438 OF 2005**

Vajuddin Karim Mulla	...Applicant
VS.	
State of Maharashtra	...Respondent
Mr.Subhash Kanse and Mr.Parvez Memon i/b Mr.A. Majeed Memon for the Applicant	
Ms M.M.Deshmukh, A.P.P. for State	

**CORAM: A.S.OKA, J.
DATE : OCTOBER 13, 2005**

P.C.:

1. Heard Advocate for the Applicant and the learned A.P.P. for State. The offence against the Applicant and co-accused is under Sections 465, 468, 472, 474, 419, 420 of the Indian Penal Code read with Section 12 (1)(2) of the Passport Act. Investigation has been completed and the charge sheet has been filed on 19th August 2005. Initially, when this application was heard, my attention has been invited to the document at Exh.E which is the telegram sent by the Superintendent of Thane Central Prison to the wife of the Applicant informing her that the Applicant was sick. Therefore, the A.P.P. was directed to take instructions. Now the A.P.P. has stated that the health of the Applicant has improved and he is no longer hospitalised.

2. The case of the Applicant is that there is no material on record to show that the Applicant has indulged in forgery and

has prepared fake passports. He submitted that many passports were found to be in custody of the Applicant as the Applicant is a travel agent. He submitted that after completion of the investigation it is not necessary to detain the Applicant. The learned A.P.P. pointed out that the allegations against the Applicant are of very serious nature which involve fabrication of passports. The learned A.P.P. pointed out that 21 passports were found in the custody of the Applicant. Reliance is placed by the learned A.P.P. on the statement of one Abdul Hussain who is the co-accused and pointed out that the said co-accused has stated that the Applicant has prepared passports in bogus names. Reliance is also placed on the fact that more than one passport have been found in the name of the Applicant.

3. I have considered the submissions. Investigation has been completed and the charge sheet has been filed. From the record it is clear that the age of the Applicant is 56 years and he was hospitalised in the civil hospital. No criminal antecedents of the Applicant have been pointed out. At this stage, complicity of the Applicant cannot be considered on the basis of the statement of the said Abdul Hussain who is a co-accused. Some of the passports which are recovered from the Applicant have already expired. The panchnama records that the except for passports which are listed therein, no other objectional material was found in the premises of the

Applicant. In the circumstances, a case is made out for enlarging the Applicant on bail subject to stringent conditions.

4. Hence I pass the following order :

i) The Applicant shall be enlarged on bail in connection with C.R.No.172/2005 registered with Samtanagar Police Station, Mumbai subject to furnishing a personal bond of Rs.25,000/- (Rupees twenty five thousand only) with one or two local sureties in the like amount.

ii) The bail is granted subject to the condition that the Applicant will report to the Investigating Officer once in a week till the conclusion of the trial.

iii) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

iv) The Applicant shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicant to delay the trial may be a ground for cancellation of bail.

v) The Applicant shall not leave the jurisdiction of the Trial Court before which the case is pending without prior permission of the Trial Court.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) The prayer made by the Applicant at this stage for seeking permission to furnish cash bail is rejected.

viii) Application is disposed of in above terms.

. Parties to act upon an authenticated copy of this order.

JUDGE